IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP NO. 667 Of 2006.

Date of decision: May 30,2007.

Anil Kumar Mehta. ……. Petitioner.

Vs.

Presiding Officer, Industrial Tribunal & Another.

……. Respondents.

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The Hon'ble Mr.Justice Deepak Gupta, Judge.

The Hon'ble Mr.Justice Surinder Singh, Judge.

Whether approved for reporting? Yes.

For the petitioner: Mr. Anil Kumar, petitioner in person.

For the respondents: Mr. Rajesh Kumar, Advocate, vice Mr. Jitender Verma, Advocate, for respondent No.2.

Deepak Gupta, J.(Oral).

The petitioner, by means of this writ petition, has prayed that the record of Reference Case No.53/2005, pending before the Presiding Officer, Labour Court, Shimla be called for and the Presiding Officer be directed to dispose of the two applications filed by the petitioners, i.e. one for grant of interim relief and another application filed for raising objection to the representation of the employer company through a legal practitioner/counsel.

We have called for the record of the case and we find that when the petitioner filed a statement of claim, he also filed an application for grant of interim relief, as far back as on 2.9.2005. Reply to the main petition as well as application for grant of interim relief was filed by the Company and thereafter, the petitioner filed

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Whether reporters of local Papers may be allowed to see the judgment? No.

rejoinder in the main petition and replication in the application for grant of interim relief. Thereafter, the Labour Court instead of deciding the same framed issues in the main case and listed the main case for evidence.

The petitioner has also filed an application dated 3.12.2005 which is at page-88 of the file of Labour Court, in which he has prayed that the respondent may not be permitted to be represented by the counsel/Advocate. We are absolutely shocked and surprised to note that though this application has been placed on the file, there is no endorsement on this application that on what date, it was filed. There is no signature of the Presiding Officer of Labour Court or his Reader with regard to filing of this application. Even in the zimni order-sheet there is no mention of the application at all. We are absolutely clear that the Labour Court cannot function in this manner. Any application which is placed on the file must bear the signature of the Presiding Officer or the Reader. It must show the date on which the application was filed and this fact should be reflected in the zimni order-sheet.

Even with regard to the application for grant of interim relief, the only reference to this application is in the order dated 2.9.2005. Thereafter, there is no reference of this application for grant of interim relief. It appears that the Presiding Judge was not in full control of the proceeding going on before him. Why were these applications not decided? The whole purpose of filing of an application for grant of interim relief is frustrated if it is to be decided with the main case.

We are not going into the merits of the applications since this matter has to be decided by the Labour Court. But decide he must. The Presiding Officer cannot abdicate his judicial functions and

permit the application(s) to remain pending till the disposal of the main case. We cannot countenance a situation, as has happened in the present case, where the applications have been filed and no orders are passed thereupon and the case is alleged to merrily proceed.

We therefore allow the writ petition and direct the Labour Court to ensure that both the aforesaid applications are decided by him, latest by 31st July, 2007. The parties through their counsel are directed to appear before the Labour Court on 5th July, 2007 on which date the matter is already fixed. The Labour Court shall also make an endeavour to dispose of the main petition as early as possible and latest by 31st December, 2007.

We would like to emphasize that in all cases, as far as possible, miscellaneous application(s) filed before the Labour Court, should be decided within a period of 60 days from the date of filing of the application, when both parties are represented and within sixty days of service if one of the parties is unrepresented and has to be served.

C.M.P.No.1095/2006.

Interim order stands vacated.

Registry shall send a copy of this order along with record of the case to the Presiding Officer, Labour Court, Shimla.

(Deepak Gupta)
Judge.

May 30, 2007.
(Pds)

(Surinder Singh)
Judge.